Court No.2

Civil Writ Petition No. 128 of 2001 (MS)

(Old No. 22303 of 1991)

Devendra Prasad Lohani …….. Petitioner

Vs.

State and others ……...…… Respondents

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Hon. P.C. Verma, A.C.J.
Hon. Irshad Hussain, J.

Heard Sri Paresh Tripathi, learned counsel for the petitioner and learned Chief Standing Counsel.

This writ petition has been filed by the petitioner seeking a writ of certiorari to quash the punishment order dated 1.6.1982 and appellate order dated 7.1.1985 contained in annexure 5 and 7 to the writ petition, respectively.

The petitioner was regularly promoted and working as Ban Daroga when the charge sheet was served on him in the departmental proceedings. Charge was with regard to illegal felling of 439 trees. It was dereliction of duties, which was misconduct under the U.P. Government Servants Conduct Rules, 1956. A reply was submitted to the charge-sheet by the petitioner. An inquiry was held and the inquiry officer submitted the report. On the basis of the report, impugned punishment was imposed and punishment order as contained in annexure 5 to the writ petition was passed.

At this stage, learned counsel for the petitioner did not press any other ground except that the punishment imposed on the petitioner by the Disciplinary Authority is not provided as the punishment under the U.P. Civil Services (Classification, Control and Appeal Rules),1930, as applicable at the relevant time. Rule 49 of the aforesaid Rules which deals with the penalties to be imposed reads as under:

> "49. The following penalties may, for good and sufficient reasons and as hereinafter provided be imposed upon the members of the services comprised in any of the clauses(1) and (5) specified in Rule 14, namely---
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> (i) censure;
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> (ii) withholding of increments, including stoppage at an efficient bar;

(iii) reduction to a lower post or time scale, or to a lower stage in a time scale;
(iv) recovery from pay of the whole or part of any pecuniary loss caused to the Government by negligence or breach of orders;
(v) suspension,
(vi) removal from the civil service of the State which does not disqualify from the future employment;
(vii) dismissal from the civil services of the State which ordinarily disqualifies from future employment.

A perusal of the impugned order shows that the punishment for downgrading of seniority for three years was imposed on the petitioner and order for re-fixation of salary was also passed.

We have examined the rules. The rules do not provide for punishment which has been imposed on the petitioner. Therefore, we quash the impugned order dated 1.6.1982 and appellate order dated 7.1.1985 contained in annexure 5 and 7 to the writ petition. However, it is open for the authorities pass order afresh in accordance with law.

The petition is disposed of accordingly.

Dt.22.05.2003 **(P.C. Verma, A.C.J.)**
A **(Irshad Hussain, J.)**